

BEFORE THE HARYANA REAL ESTATE APPELLATE TRIBUNAL

Appeal No.1/MT/2023
Date of Decision: 29.05.2024

M/s Shree Vardhman Infraheights Pvt. Ltd. registered office at 3rd Floor, Indra Prakash Building, 21 Barakhamba Road, Barakhamba, New Delhi 110001.

Appellant

Versus

Haryana Real Estate Regulatory Authority, Gurugram, office at PWD Rest House, Old Railway Road, Civil Lines, Gurugram, Haryana 122001.

Respondent

CORAM:

Justice Rajan Gupta

Chairman

Argued by : Mr. Shalabh Singhal, Advocate along with
Mr. Venket Rao, Advocate,
for the appellant.

None for the respondent-Authority.

ORDER:

RAJAN GUPTA, CHAIRMAN:

Challenge in the present appeal is to order dated 20.03.2023 passed by the Authority at Gurugram. Same reads as under:-

“Proceedings dated: 20.03.2023.

Ms. Prachi Singh, Planning Executive briefed about the facts of the case.

None is present on behalf of the promoter. A show cause notice for rejection of application was issued on 22.02.2023 as the promoter has failed to comply with

*deficiencies already pointed out **despite 24 opportunities.** Even today, none has appeared on behalf of the promoter applicant which indicates that he does not intend to pursue the matter. In view of the above, the application for extension of registration of the project is hereby rejected under the provisions of section 6 of the RERA Act, 2016. The processing fee deposited by the applicant promoter is forfeited and the registration fee if any deposited may be refunded.*

It is further observed that the time period for completion of the project and registration expired on 30.06.2021 including 6 months relaxation for COVID-19 period. In view of the above, the office to initiate the process under section 8 of the Act, 2016 and to issue a public notice to this effect. The bank account of the project is hereby frozen and intimation be sent to the Bank. The concerned PE to do the needful in this regard by tomorrow noon.”

2. Appellant-Vardhaman Infraheights Pvt. Ltd. is a private company registered and incorporated under the provisions of Companies Act, 1956. It appears that it was granted permission to develop a project namely “Shree Vardhman Victoria” situated at Sector 70, Gurugram (Haryana). The Director, Town and Country Planning (DTCP), Haryana granted a licence bearing No.103 in the year 2020 to develop the said project.

3. As per averments, licence was granted to ‘M/s Santur Infrastructure Pvt. Ltd.’ in collaboration with the land owners. Subsequently, Santur Infrastructure Pvt. Ltd. entered into an agreement with the Appellant-Vardhaman Infraheights Pvt. Ltd.

and assigned its right of development, construction, marketing and sale of the built-up area in the project in question to Vardhman.

4. Appellant applied for registration of project under Section 5 of the RERA Act, 2016 and registration bearing No.70/2017 dated 18.08.2017 was granted in its favour. Said registration was valid upto 31.12.2020 (excluding the automatic extension granted due to Covid-19 Pandemic).

5. On 28.10.2021, the appellant applied for extension of registration under Section 16 of the Act. Said application was entertained vide diary No.25318 dated 28.10.2021 and registration No.RERA-GRG-923-2021 was granted.

6. Stand of the appellant is that even during the extension of registration, appellant continued with the development activity and Occupation Certificate (OC) in respect of five residential towers was granted on 13.07.2022 by the DTCP, Haryana and OC in respect of remaining three towers was granted on 05.05.2023. They, claim that total 537 residential units have been constructed out of 517 which have been sold out/allotted. Possession of 436 units have been handed over till date and that of 81 units remain to be handed over. However, vide order dated 20.03.2023, their application for extension of registration has been rejected and the account was frozen. As per them, in Account No.777705226266, substantial amount is lying and cannot be utilized either to complete the finishing work of towers or meeting other liabilities.

7. Though, the Respondent-Authority remained unrepresented during the course of arguments. A report was

sought by this Court. On 24.07.2023, Ms. Prachi Singh, Planning Executive for the respondent-Authority produced a report regarding status of the project.

8. The appellant gave an undertaking that it would not create any third party rights on the project during the pendency of the appeal.

9. Learned counsel for the appellant vehemently contended that while refusing extension of the project in question, the Authority did not consider the fact that all 8 towers had been completed and OC had been granted by the DTCP, Haryana in respect of all. Out of the 8 towers erected by it finishing work was yet to be completed in 2 towers. The counsel also submitted that the impugned order is cryptic and non-speaking in nature. As per them, the fact that all 8 towers had been completed, was not considered by the Authority. Reliance has also been placed on the judgment reported as ***Neel Kamal Realtors Suburban Pvt. Ltd. & anr. Vs. Union of India and others 2018(1) RCR (Civil) 298 (DB)*** to contend that object and intent of the enactment, rights and liabilities of the promoter and allottee in larger public interest have to be taken into consideration while passing the order under Section 6 of the Act.

10. On behalf of the HRERA, Gurugram only a report is available on record. As per same the promoter failed to file any reply to the show cause notice and make up the deficiencies. As a result, the Authority rejected the application for extension

of registration and decided to forfeit the processing fee deposited by the promoter.

11. This Bench has considered the submissions made by the counsel on behalf of the appellant and gone through the record with their assistance and given careful thoughts to the facts of the case.

12. There is substance in the plea of the appellant that the order passed by the Authority is cryptic in nature. The factual position as outlined above is not reflected anywhere in the order. Stand of the appellant that majority work has been completed in the 8 towers and OC has been granted by DTCP, Haryana, has not been dealt with by the Authority in the order passed.

13. Even the factual aspects highlighted hereinabove as also in the report submitted by the Authority during pendency of the present appeal, need to be dealt with.

14. Under these circumstances, this Tribunal has no option, but to set aside the impugned order and remit the case to the same Authority for decision afresh as per law after taking into consideration facts and circumstances of the case and present status of the project.

15. The Authority shall endeavour to decide the matter at the earliest, in any case, not later than 3 months. If and when the bank account which has been frozen by virtue of the

impugned order, is sought to be operated, same shall be as per law and under supervision of the Chairman, HRERA, Gurugram.

16. Appeal is allowed in these terms.

17. Parties to appear before the Authority below on 31.05.2024.

18. Copy of this order be communicated to the appellant, its counsel and the Authority below.

19. File be consigned to the records.

Announced:
29.05.2024

Justice Rajan Gupta
Chairman
Haryana Real Estate Appellate Tribunal

Manoj Rana